IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2267 OF 2006

IN

FIRST APPEAL NO.1010 OF 2006

Sunilkumar Suganlal Sethiya .. Applicant

V/s.

Manoj Ganpatrao Suryawanshi & Ors. .. Respondents

Shri.A.M.Kulkarni for the applicant.

CORAM : S. B. DESHMUKH, J

DATED : 04/10/2006

P.C.

Heard the learned counsel for the applicant. Perused the order passed by this Court earlier i.e. on 04/05/2006. Rule issued was returnable on 27/11/2006 and it was further observed that "No ad-interim relief as of today."

The learned counsel for the applicant submits, that rule is served to the respondents. Perused the office notings, showing that the notice on respondent No.1 to 4 is duly served.

The applicant was the plaintiff in Special Civil Suit No.259 of 2000 for specific performance of oral agreement and subsequently for possession of the immovable property.

This suit is dismissed by the Trial Court by the Judgement and Decree passed on 07/03/2006. The learned counsel for the applicant has invited my attention to paragraph No.5 of the C.A. It is clarified that during the pendency of the suit in the Trial Court, application for temporary injunction against original defendants, regarding execution of the sale deed was not pressed, since the application under section 43 of the Tenancy Act was pending consideration before the Competent Authority. The learned counsel for the applicant submits,that said permission was granted by the Competent Authority on 15/02/2006. He has also challenged the permission granted before the Learned Commissioner for Revenue. It was proceeding No.TNC/A/R/VRRVE/SAN/31/2006. In this Revision Application, earlier stay granted by the learned Commissioner is vacated. The learned counsel has tendered xerox copies of the said order which is marked as "x" and taken on record. According to him, since the permission is granted and stay is also vacated by the learned Commissioner, the respondent No.4 is likely to execute sale deed in favour of respondent Nos.1-3. In this view of the matter, I am satisfied that prima facie for grant of interim relief in terms of prayer clause 12 (b) (c) can be granted with leave in favour of the other side to apply for vacating interim relief.

Civil Application is allowed in terms of prayer clauses (b) & (c) with leave in favour of the respondents. Civil Application is allowed and disposed off accordingly.

(S. B. DESHMUKH, J)